

REMARKS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested. After entry of the foregoing amendment, Claims 1-9 and 16-17 remain pending in the present application. No new matter has been added.¹

By way of summary, the Office Action presented the following issues: Claims 3-4 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement; Claims 1-2, 5-8, and 15-16 were rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent Application Publ'n No. 2001/0056404 to Kuriya et al. (hereinafter "Kuriya") in view of U.S. Patent Application Publ'n No. 2002/0194474 to Natsuno et al. (hereinafter "Natsuno") and WO 03/028283 to Halén et al. (hereinafter "Halén"); Claim 3 was rejected under 35 U.S.C. § 103(a) as obvious over Kuriya in view of Natsuno, Halén, and U.S. Patent No. 6,128,661 to Flanagan et al. (hereinafter "Flanagan"); Claim 4 was rejected under 35 U.S.C. § 103(a) as obvious over Kuriya in view of Natsuno, Halén, Flanagan, and U.S. Patent Application Publ'n No. 2003/0134615 to Takeuchi (hereinafter "Takeuchi"); and Claim 9 was rejected under 35 U.S.C. § 103(a) as obvious over Kuriya in view of Natsuno, Halén, Takeuchi, and U.S. Patent Application Publ'n No. 2003/0078723 to Kunigita (hereinafter "Kunigita").

STATEMENT OF SUBSTANCE OF INTERVIEW

Applicants and Applicants' representative wish to thank Supervisory Examiner Moise and Examiner Vu for the courtesy of the personal interview granted on April 13, 2010. During the interview, amendments clarifying the claims over the applied references were discussed. Claim amendments different from those discussed during the interview are included herein.

¹ The amendments to independent Claims 1, 3, and 5-7 find support at least in Figures 10 and 12 and in their accompanying text in the specification.

ABSTRACT

Applicants have deleted the Abstract and submitted herewith a new Abstract. No new matter has been added.

REJECTION UNDER 35 U.S.C. § 112

Claims 3-4 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Although it is believed that Claim 3, as written, sufficiently complies with the written description requirement, Applicants have amended Claim 3 to clarify the recited external apparatus. Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 112, first paragraph.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 1-2, 5-8, and 15-16 were rejected under 35 U.S.C. § 103(a) as obvious over Kuriya in view of Natsuno and Halén. In light of the several grounds of rejection on the merits, independent Claims 1, 3, and 5-7 have been amended to clarify the claimed inventions and to thereby more clearly patentably define over the applied references.

Independent Claim 1 recites an information-processing apparatus including, in part, “receiving means . . . for receiving a cancellation request including the user ID data and the apparatus ID data . . . ; [and] deleting means for deleting, from the storage means, the apparatus ID data after deleting, from the storage means, the service ID data, when the receiving means receives . . . the cancellation request” Applicants respectfully submit that Kuriya, Natsuno, and Halén fail to disclose or suggest this feature.

Kuriya concerns a content management program of a mobile telephone that deletes content from a storage block of the mobile telephone.² Further to Kuriya, a content management program of a management server deletes a device ID stored in a content management table in the manager server.³ That is, Kuriya merely describes two different content management programs deleting information from two different apparatuses.

Thus, the Office has not established that a single means performs both deletions. The Office has therefore failed to perform the required analysis of identifying corresponding structure and *associated functions* in the applied reference. In this regard, the Court responsible for reviewing Office decisions has emphasized that conclusory findings that omit analysis as to “means” recitations are improper.

[T]he [Office] never construed the scope of the structures disclosed in the specification for the claimed “. . . means,” nor did the [Office] expressly find that the “. . . means” disclosed in the specification was structurally equivalent to that embodied in [the reference]. Moreover, the [Office’s] opinion also failed to define the exact function of the . . . means, as well as to find that [the reference] disclosed the *identical* function. See Pennwalt Corp. v. Durand-Wayland, Inc., 833 F.2d 931, 934, 4 USPQ2d 1737, 1739 (Fed.Cir. 1987) (in banc) (means-plus-function limitation covers structure that *performs the identical function . . .*).⁴

There has not been any identification in the text of Kuriya of “deleting, from the storage means, the apparatus ID data after deleting, from the storage means, the service ID data, when the receiving means receives . . . the cancellation request” Thus, it appears that the rejection relies merely on conjecture or unfounded assumptions.

The Office’s position is clearly a modification of the actual teachings of Kuriya, and such a modification to the actual teachings using unfounded assumptions and/or speculation is improper. See In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967)

² Kuriya, para. [0320].

³ Id., para. [0324].

⁴ Gechter v. Davidson, 43 USPQ2d 1030, 1035 (Fed. Cir. 1997) (rev’g Office decision) (second emphasis supplied).

(“The Patent Office has the initial duty of supplying the factual basis for its rejection. It may not, because *it* may *doubt* that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis.”).

Further, in Kuriya, the mobile telephone sends a request including the user ID and a content ID.⁵ During the interview, Examiner Vu explained her position that the Kuriya user ID discloses Applicants’ recited user ID data. Thus, the Office appears to assert that the content ID sent in the request discloses Applicants’ recited apparatus ID data.

Kuriya merely describes deleting content and a device ID.⁶ Kuriya does not disclose deleting the content *ID*. Thus, Kuriya fails to disclose or suggest “deleting means for deleting, from the storage means, the apparatus ID data after deleting, from the storage means, the service ID data, when the receiving means receives . . . [a] cancellation request,” “[the] cancellation request including the user ID data and the apparatus ID data,” as recited in Claim 1.

Further, Kuriya describes that the content management program deletes the device ID corresponding to the content ID.⁷ At the interview, Examiner Vu explained her position that, because the device ID corresponds to the content ID, deleting the device ID is equivalent to deleting the content ID.

The cited portions of Kuriya do not disclose or suggest an authentication based on the Kuriya content ID. Meanwhile, Applicants’ Claim 1 requires an authentication based on the apparatus ID data. Therefore, the Kuriya content ID is plainly not equivalent to Applicants’ recited apparatus ID data.

It is respectfully submitted Kuriya fails to disclose or suggest “deleting means for deleting, from the storage means, the apparatus ID data after deleting, from the storage means, the service ID data, when the receiving means receives . . . [a] cancellation request,”

⁵ Kuriya, para. [0320].

⁶ Id., paras. [0320], [0324].

⁷ Id., para. [0324].

“[the] cancellation request including the user ID data and the apparatus ID data,” as recited in Claim 1.

Also at the interview, Examiner Moise suggested that an authentication based on apparatus ID data is equivalent to any other authentication. In this regard, the Office is reminded that, in order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art.⁸ Thus, Applicants request that the Office provide evidence of the equivalency of a Kuriya authentication to Applicants’ recited authentication as recognized by the prior art at the time of Applicants’ invention.

Natsuno concerns a deactivation request that contains information specifying a mobile terminal and information specifying a program to be deleted.⁹ The Office did not rely on Natsuno as disclosing Applicants’ previously recited deleting means. It is respectfully submitted that Natsuno fails to disclose or suggest “deleting means for deleting, from the storage means, the apparatus ID data after deleting, from the storage means, the service ID data, when the receiving means receives . . . the cancellation request,” as recited in amended Claim 1.

Halén concerns a secure execution unit that sends an authenticated execution result to a receiver.¹⁰ The Office does not rely upon Halén as disclosing Applicants’ previously recited deleting means. It is respectfully submitted that Halén fails to disclose or suggest “deleting means for deleting, from the storage means, the apparatus ID data after deleting, from the storage means, the service ID data, when the receiving means receives . . . the cancellation request,” as recited in amended Claim 1.

Thus, it is further submitted that Kuriya, Natsuno, and Halén, taken alone or in combination, fail to disclose or suggest “deleting means for deleting, from the storage means,

⁸ MPEP § 2144.06 II.

⁹ Natsuno, para. [0130].

¹⁰ Halén at 9, ll. 17-20.

the apparatus ID data after deleting, from the storage means, the service ID data, when the receiving means receives . . . the cancellation request,” as recited in amended Claim 1.

It is additionally submitted that Claim 1 (and all associated dependent claims) patentably distinguishes over any proper combination of Kuriya, Natsuno, and Halén for at least the foregoing reasons.

Applicants also submit that independent Claims 5-7 patentably distinguish over any proper combination of Kuriya, Natsuno, and Halén for at least reasons analogous to those set forth above with regard to Claim 1.

Additionally, it is submitted that Kunigita fails to remedy the above-noted deficiencies in Kuriya, Natsuno, and Halén with regard to Claim 1. Accordingly, it is respectfully submitted that the rejection of dependent Claim 9 is moot.

It is further submitted that Flanagin fails to remedy the above-noted deficiencies in Kuriya, Natsuno, and Halén. Thus, it is respectfully submitted that independent Claim 3 patentably distinguishes over any proper combination of Kuriya, Natsuno, Halén, and Flanagin for at least the reasons discussed above with regard to Claim 1.

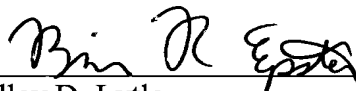
It is also submitted that Takeuchi fails to remedy the above-noted deficiencies in Kuriya, Natsuno, Halén, and Flanagin with regard to Claim 3. Accordingly, it is respectfully submitted that the rejection of dependent Claim 4 is moot.

CONCLUSION

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the present application is patentably distinguished over the cited references and is in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)

Brian R. Epstein
Registration No. 60,329